

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

JUPITER LLC and
INFINITY COAL SALES, LLC,
as agent for Jupiter LLC,

Plaintiffs,

v.

CIVIL ACTION NO. 5:05-cv-00006

TXU PORTFOLIO MANAGEMENT
COMPANY and
TXU PORTFOLIO OPTIMIZATION
COMPANY, LLC,

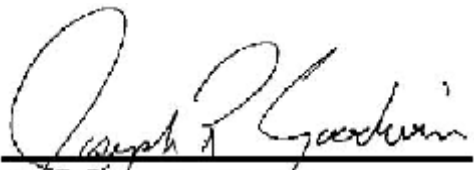
Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the court is the defendants' motion to amend the counterclaim. *Fed. R. Civ. P.* 15(a) permits amendment of a pleading after a responsive pleading has been filed "only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires." For good cause shown, the court **GRANTS** the defendants' motion for leave to amend the counterclaim.

The court **DIRECTS** the Clerk to send a copy of this Written Opinion and Order to counsel of record and any unrepresented party.

ENTER: August 15, 2005



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE